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Hearing Date and Time: February 14, 2019 at 10:00 a.m.

and

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>In re:</b>	)
	) Chapter 11
	)
<b>SEARS HOLDINGS CORPORATION, <i>et al.</i>,</b>	) Case No. 18-23538 (RDD)
	)
<b>Debtors.</b>	) (Jointly Administered)
	)

**DECLARATION OF ALDO ROJAS IN SUPPORT MOTION OF CERTAIN  
UTILITY COMPANIES TO DETERMINE ADEQUATE ASSURANCE OF PAYMENT  
PURSUANT TO SECTION 366(c) OF THE BANKRUPTCY CODE**

**[Docket No. 1395]**

I, Aldo Rojas, declare as follows:

1. I am the Mass Markets Credit & Collections Supervisor, Customer Operations, for Southern California Gas Company ("SoCalGas") and I have been in that position for one year and

with SoCalGas for twelve years. In my current position with SoCalGas, I assist in the credit and bankruptcy operations.

2. Except as otherwise stated, all facts contained within this Declaration are based upon personal knowledge, my review of SoCalGas's business documents, correspondence and relevant documents, or my opinion based upon my experience concerning the operations of SoCalGas. If called upon to testify, I would testify to the facts set forth in this Declaration.

3. On behalf of SoCalGas, I submit this Declaration in support of the *Motion of Certain Utility Companies to Determine Adequate Assurance of Future Payment Motion* (the "Motion") (Docket No. 1395).

4. In making this Declaration, I am familiar with the contents of the Motion (Docket No. 1395), *Motion of Debtors Requesting Entry of an Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* (the "Utility Motion")(Docket No. 196), and the *Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* (the "Utility Order")(Docket No. 461).

5. It is part of my job responsibility with SoCalGas to: (A) review customer accounts with SoCalGas; (B) address credit issues with SoCalGas's customers; and (C) address issues concerning customers that file for bankruptcy protection, including requests for adequate assurance

of payment.

6. SoCalGas's relationship with the Debtors is governed by tariffs (the "SoCalGas Tariffs") that are on file with the California Public Utilities Commission and can be obtained at: <https://www.socalgas.com/regulatory/tariffs/tariff-Book.shtml>

7. The SoCalGas Tariffs establish: (a) the amount of security that SoCalGas is entitled to seek from its customers under applicable state law; (b) that SoCalGas must bill the Debtors monthly; and (c) the billing and payment terms for all SoCalGas's customers. Specifically, under the billing cycle established by the SoCalGas Tariffs, a customer receives approximately one month of utility goods and/or services before SoCalGas issues a bill for such charges, which is due (add number of days to pay bill). If payment is not made within 20 calendar days of the invoice date, a late payment charge at the rate of 0.7 % percent per monthly billing period is applied to the account. Service may be terminated upon a customer's failure to pay a bill for utility service, but not until SoCalGas has provided the customer with written notice that is mailed to the customer using the mailing address on file, and fourteen business days to cure the payment default. Accordingly, a customer's account will not be terminated for non-payment of bills until at least seven business days after the notice was mailed.

8. As of the Petition Date, the Debtors owed SoCalGas \$13,249.47 for billed charges.

9. SoCalGas provided the Debtors with utility goods and services prior to the Petition Date and continues to provide post-petition utility goods and services to the Debtors at the Debtors' accounts that are listed on the chart attached to this Declaration as **Exhibit "A."**

10. Pursuant to the SoCalGas Tariffs, SoCalGas is entitled to seek adequate assurance of payment from the Debtors in the form of a two-month cash deposit in the amount of \$9,256,



which is the amount SoCalGas is seeking from the Debtors in these cases for the forty-seven post-petition accounts that the Debtors have with SoCalGas.

11. SoCalGas is seeking a two-month deposit in this case because of the exposure created by its billing cycle.

12. For its non-bankrupt customers, SoCalGas accepts security in the form of cash deposits, letters of credit or surety bonds, all of which are forms of security maintained by SoCalGas.

13. Although SoCalGas does not want its post-petition security to be in the form of money maintained in the Adequate Assurance Account, if the Court were to hold that the security provided to SoCalGas is to be in that form, SoCalGas would ask that the Utility Order be amended to include the following additional provisions to ensure that the money held in the Adequate Assurance Account is sufficient in amount and would be available for payment of unpaid post-petition bills:

A. The amount for SoCalGas be increased to \$9,256, which is two times the average monthly bills for the (insert number of post-petition accounts) active accounts that the Debtors still have with SoCalGas.

B. The portion of the Adequate Assurance Deposit attributable to each Utility Provider shall be returned to the Debtors after the Debtors' payment in full of all post petition obligations due and owing to the applicable Utility Provider, which the Debtors shall confirm in writing with the applicable Utility Provider.

C. The Debtors agree to pay all post petition charges of the Utility Providers by the applicable due date of the invoice, which is a due date established in accordance with

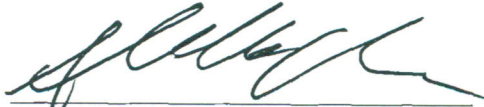
applicable state laws, regulations and/or tariffs.

D. If the Debtors fail to pay a utility bill when due (including the passage of any cure period), the relevant Utility Provider shall provide notice of such default to the Debtors, and if within five (5) business days of such notice, the bill is not paid, the Utility Provider may file an application with the Court certifying that payment has not been made and requesting the amount due up to an aggregate maximum equal to the Adequate Assurance Deposit allocable to such Utility Provider.

E. Notwithstanding anything in the Motion, the Order or (i) the orders approving the Debtors' use of cash collateral and/or post-petition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) the other documentation governing the Debtors' use of cash collateral and post petition financing facilities; and (iii) the Approved Budget (as defined in the DIP Orders) to the contrary, there shall be no liens on the amounts in the Adequate Assurance Account for the Utility Providers that are higher in priority to the Utility Providers' rights and interests in the amounts contained and allocated in the Adequate Assurance Account for the Utility Providers. Moreover, the amounts contained in the Adequate Assurance Account shall remain available to the Utility Providers for the payment of post-petition charges even if the Debtors cases are converted to cases under Chapter 7 of the Bankruptcy Code.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 4<sup>th</sup> day of February 2019, at Los Angeles, California.

  
Aldo Rojas

**EXHIBIT "A"**

SoCalGas

<u>Bill Account Number</u>	<u>Customer Name</u>	<u>System Calculated Deposit</u>
xxxxxxx-9898	KMART CORPORATION	\$80.00
xxxxxxx-1182	KMART CORPORATION	\$50.00
xxxxxxx-9964	KMART CORPORATION	\$525.00
xxxxxxx-0043	KMART CORPORATION	\$120.00
xxxxxxx-8449	KMART CORPORATION	\$125.00
xxxxxxx-6008	KMART CORPORATION	\$45.00
xxxxxxx-2645	KMART CORPORATION	\$130.00
xxxxxxx-4226	KMART CORPORATION	\$160.00
xxxxxxx-1455	KMART CORPORATION	\$95.00
xxxxxxx-2645	KMART CORPORATION	\$30.00
xxxxxxx-3926	KMART CORPORATION	\$445.00
xxxxxxx-3902	KMART CORPORATION	\$185.00
xxxxxxx-7578	KMART CORPORATION	\$265.00

<u>Bill Account Number</u>	<u>Customer Name</u>	<u>System Calculated Deposit</u>
xxxxxxx-8400	Sears Roebuck & Company INC	\$30.00
xxxxxxx-0500	Sears Roebuck & Company INC	\$35.00
xxxxxxx-6777	Sears Roebuck & Company INC	\$30.00
xxxxxxx-3500	Sears Roebuck & Company INC	\$35.00
xxxxxxx-4332	Sears Roebuck & Company INC	\$55.00
xxxxxxx-1380	Sears Roebuck & Company INC	\$3,130.00
xxxxxxx-6432	Sears Roebuck & Company INC	\$250.00
xxxxxxx-5900	Sears Roebuck & Company INC	\$50.00
xxxxxxx-1924	Sears Roebuck & Company INC	\$35.00
xxxxxxx-0000	Sears Roebuck & Company INC	\$45.00
xxxxxxx-4100	Sears Roebuck & Company INC	\$45.00
xxxxxxx-0232	Sears Roebuck & Company INC	\$95.00
xxxxxxx-6100	Sears Roebuck & Company INC	\$35.00
xxxxxxx-8788	Sears Roebuck & Company INC	\$35.00
xxxxxxx-2000	Sears Roebuck & Company INC	\$90.00
xxxxxxx-2600	Sears Roebuck & Company INC	\$110.00
xxxxxxx-3300	Sears Roebuck & Company INC	\$345.00
xxxxxxx-2100	Sears Roebuck & Company INC	\$40.00
xxxxxxx-4400	Sears Roebuck & Company INC	\$65.00
xxxxxxx-1000	Sears Roebuck & Company INC	\$30.00
xxxxxxx-8451	Sears Roebuck & Company INC	\$60.00
xxxxxxx-1000	Sears Roebuck & Company INC	\$465.00
xxxxxxx-3500	Sears Roebuck & Company INC	\$45.00
xxxxxxx-3300	Sears Roebuck & Company INC	\$35.00
xxxxxxx-1300	Sears Roebuck & Company INC	\$30.00
xxxxxxx-4681	Sears Roebuck & Co INC CLOSED 10/01/1	\$0.00 CLOSED
xxxxxxx-6087	Sears Roebuck & Company INC	\$210.00
xxxxxxx-1833	Sears Roebuck & Company INC	\$85.00
xxxxxxx-3098	Sears Roebuck & Company INC	\$70.00
xxxxxxx-4977	Sears Roebuck & Company INC	\$90.00
xxxxxxx-6353	Sears Roebuck & Company INC	\$80.00
xxxxxxx-4150	Sears Roebuck & Company INC	\$40.00
xxxxxxx-9300	Sears Roebuck & Company INC	\$35.00
xxxxxxx-3856	Sears Roebuck & Company INC	\$70.00
xxxxxxx-5745	Sears Auto Center	\$1,075.00